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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 68/AIL/Lab./T/2020,
Puducherry, dated 14th July 2020)

NOTIFICATION

Whereas, an Award in I.D. (T) No. 15/2016, dated 12-02-2020 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the Industrial Dispute between the management of M/s. S & S Power Switchgear Equipment Limited, Sedrapet, Puducherry and Thiru Poongavanam, Vanoor District, over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the Notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

S. MOUTTOULINGAM,
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL AT
PUDUCHERRY**

Present: Thiru V. PANDIARAJ, B.Sc., LL.M.,
Presiding Officer.

Wednesday, the 12th day of February 2020.

I.D. (L) No. 15/2016

Poongavanam,
No. 2/463, Bharathi Street,
Kalaignar Nagar,
Thiruchitrambalam Koot Road,
Vanoor District.

. . Petitioner/
Workman.

Versus

The Managing Director,
M/s. S & S Power Switchgear
Equipment Limited,
No. 4, EVR Street,
Sedrapet, Puducherry.

. . Respondent/
Management.

This industrial dispute coming on 11-02-2020 before me for final hearing in the presence of Thiruvalargal P.R. Thiruneelakandan, A. Mithun Chakravarthy and R. Harinath, Counsels for the petitioner and

Thiru M. Vaikunth, Counsel for the respondent, up on hearing, up on perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This Industrial Dispute has been referred by the Government of Puducherry as per the G.O. Rt. No. 52/AIL/Lab./T/2016, dated 06-06-2016 for adjudicating the following;

(a) Whether the dispute raised by Thiru E. Poongavanam, against the management of M/s. S & S Power Switchgear Equipment Limited, Puducherry, over his non-employment is justified or not? If justified, what relief he is entitled to?

(b) To compute the relief if any, awarded in terms of money if, it can be so computed?

2. *The brief averment of the petition filed by the petitioner:*

(i) The petitioner was employed in the respondent factory during 1988. He was an active member in the Union namely, S & S Power Switchgear Equipment Limited, Labour Union. It had only limited member of workers. During the year 2012, the abovesaid Union and the other Union by name S & S Power Switchgear Equipment Limited, Employees Welfare Sangam, which had majority workers as his member, had submitted a charter of demands for revision of wages before the respondent.

(ii) The Trade Union by name S & S Power Switchgear Equipment Limited Labour Union had acted against the interest of the workers in collusion with the management. It raised misunderstanding between this petitioner and the S & S Power Switchgear Equipment Limited Labour Union, therefore, this petitioner along with two other workers had left from the said Union and joined as members in the rival union by name S & S Power Switchgear Equipment Limited Employees Welfare Sangam. Since, this petitioner and two other members resigned from the said minority Union its strength was reduced to five members only. It was not even enough to meet the minimum statutory strength to form and function as Trade Union and therefore, the management was unable to execute the 12(3) settlement with the said minority Union with respect to the wage revision and therefore, the respondent management had personal animosity with this petitioner and it has decided to victimize this petitioner by adopting unfair labour practice. While so on 13-11-2013, the charge memo was issued to this petitioner alleging that this petitioner had assaulted the co-employee by name

Mr. K. Saravanan. This petitioner denied the charges as false and baseless. But, the respondent management conducted the domestic enquiry in a pre determined manner to terminate this petitioner from his service. It has adopted empty formality without observing any rule and principles of natural justice and in a hasty manner and concluded the domestic enquiry in its favour and it has terminated this petitioner from service on 18-04-2015. Aggrieved by the same, this petitioner had raised the dispute before the Conciliation Officer (Labour) and it ended in failure. It was reported on 27-01-2016 and thereafter, this Industrial Dispute has been referred to this Labour Court by the Government of Puducherry. The management had acted in arbitrary, illegal and against the natural principles of justice and thereby removed this petitioner from service on 18-04-2015. It is a pure Act of victimization and unfair labour practice and hence, the order of termination has to be set aside. No fair and proper enquiry was conducted by the management. This petitioner was not afforded with opportunity to defend his charges. The Enquiry Officer conducted the enquiry in a hasty manner with pre-determination. The management has imposed the punishment of termination in an arbitrary manner. Therefore, the illegal termination order, dated 18-04-2015 has to be set aside and the petitioner has to be reinstated into the company with continuity of service. back wages and all other monetary benefits. Hence, it is prayed to allow this application.

3. The brief averment of the counter field by the respondent:

(i) The allegations raised by he petitioner against the respondent as denied as false and baseless. The management never acted in a victimized manner. This petitioner was terminated for his proven misconduct relating to the incident that took place inside the factory on 07-11-2013. The punishment awarded against the petitioner is in proportionate one. There is no arbitrariness or illegality in the termination order and therefore, it is not necessary to set aside the order of termination.

(ii) On 07-11-2013 at 05.10 p.m. the co-employee by name Mr. Saravanan was returning from the toilet along with his colleague by name Mr. Augstin and at the time, this petitioner accosted the abovesaid Saravanan, at the end of the path way opposite to the Machine shop where angle notching machine is located. This petitioner abused the said Saravanan as follows “டேம் கதவை வேகமா தட்டு தன்னிட்டு போறியே உனக்கு அவ்ளோ கூதி ஆப்பா” Further, this petitioner scolded and assaulted Mr. Saravanan on

his right neck and pushed him and he raised his hand once again, which was intervened and stopped by the said Augustin. The abovesaid act is a misconduct under clause 149(3) (g) (h) and (i) of the Industrial Employment (Standing Order) Central Rules, 1946 and hence, the charge memo was issued to this petitioner in writing and he is directed to file his reply within 48 hours from the date of receipt of the charge memo. This petitioner has requested for 15 days time to enable him to file his explanation on 15-11-2013. The management has granted a week time letter, dated 16-11-2013. Again on 23-11-2013, the petitioner seeks further time to offer his explanation and it was granted by the management *vide* its letter, dated 25-11-2013. Finally, this petitioner filed his explanation on 30-11-2013 wherein, he has denied the charges in a single line. Thereafter, the enquiry was started on 13-12-2013 and the domestic enquiry was concluded on 11-07-2014. It has consumed nearly 28 sittings from the date of commencement on 27-12-2013. The respondent management has examined Mr. Saravanan, Augustine and the Senior Engineer Mr. Selvakumar. The management has represented its case through its representative by name Mr. Arul. This petitioner has participated in the Domestic Enquiry and he has examined Mr. Palaninathan, Mr. V. Murugan and one V. Senthilkumar. This petitioner was assisted by his colleague by name D. Thirugnaunsambandam. This petitioner has participated in the enquiry fully with his assistant with above the said D. Thirunanasambandam. All the material and relevant records were produced before the Enquiry Officer and its copies were furnished to this petitioner. Further, this petitioner has cross-examined all the witnesses thoroughly and finally the findings of the Enquiry Officer were submitted on 29-10-2014 and the copy of the same was given to this petitioner on 22-12-2014. This petitioner has given his reply to the findings on 13-01-2015. Thereafter, the 2nd show cause notice was issued to this petitioner on 13-02-2015. This petitioner has taken sufficient time and advice from his Colleague/Trade Union member and finally, he has given his reply on 03-03-2015. After considering the same, the gravity of the Acts and misconduct of this petitioner, the management has terminated this petitioner from his service. The order of dismissal has no relevance with the Union activity and it was purely related to the incident that took place on 07-11-2013 at about 05.10 p.m. This petitioner has purposely suppressed the real fact and attempted to project the

picture that he was victimized by the management and by the rival Union. The resignation of this petitioner from one Union and switch over to other Union is no way relevant to this case and the reasons for his quit also no way connected with Union activity. Further, the issue of wages as no way related to this industrial dispute. Hence, it has to be dismissed.

4. On the side of the petitioner only witness was examined and Ex.P1 to Ex.P6 were marked. On the side of the respondent only one witness was examined and Ex.R1 and Ex.R11 were marked.

5. The petitioner side Counsel argued that this petitioner was victimized and terminated from the service, as he resigned from the minority Union along with two other members and switch over to the majority Union. It is further argued that due to his resignation of his membership from the minority Union, the minority Union has lost its statutory strength and it was unable to enter into 12 (3) settlement with the management. In order to victimize this petitioner, the respondent management has issued a false charge memo and conducted the disciplinary proceedings as an empty formality and thereby removed this petitioner from his service. It is further argued that the termination order was issued as a colourful exercise by the management against the provision of labour legislations. It is further argued that removal of this petitioner from service for the act of use of filthy language against the co-employee, is a colourful exercise and the order of the punishment is also highly excessive and dis-proportionate and hence, it has to be set aside and the petitioner has to be awarded with re-instatement with all other monetary benefits.

6. The respondent side Counsel argued that this petitioner was removed from service for alleged misconduct that took place on 07-11-2013 and there was no relevancy of rivalry Union activity as alleged by this petitioner. It is further argued that this petitioner was removed from his service for the proven and misconduct of use of filthy language and assault against the co-employee on 07-11-2013. It is further argued that in order to save the co-employee and to maintain the industrial peace, this petitioner was properly subjected to disciplinary proceedings and hence, punished with removal of service and it was not excessive as alleged by the petitioner. It is further argued that there was no hasty in concluding the proceedings and this petitioner was removed from his service after following all the legal formalities and the principles of natural justice and hence, he prayed to dismiss the claim petition by this petitioner.

7. Points for consideration:

Whether the dispute raised by Thiru E. Poongavanam against the management of M/s. S & S Power Switchgear Equipment Limited, Puducherry, over his non-employment is justified or not? If justified, what relief he is entitled to?

8. On the Point:

The petitioner was an employee in the respondent company and he has been removed from his service by the management on 18-04-2015 are all admitted facts. Originally, this petitioner was a member in S & S Power Switchgear Equipment Limited Labour Union which is a minority Union and thereafter, this petitioner along with two others left from the same union and they have joined as members of the majority Union by name S & S Power Switchgear Equipment Limited Employees Welfare Sangam are also admitted facts. Whether the order of the removal/termination on the basis of the enquiry proceedings is justifiable or not is to be decided hereunder.

9. The petitioner has pleaded that as he left from the minority Union and therefore, the respondent management and the representatives of the minority Union had personal animosity with this petitioner and therefore, he was victimized by the respondent management. At the same time, the respondent has pleaded that the removal of this petitioner from his service is for the proven of misconduct that took place on 07-11-2013 and not for the rivalry Union activities. To analyse the abovesaid aspects, this Court inclined to go through the documents produced on both sides. This petitioner has pleaded that originally the minority Union has also given a charter of demand and due to his resignation from the said minority Union, the minority Union has lost its statutory strength and therefore, it was unable to enter under section 12(3) settlement with the respondent management. The petitioner further pleaded that due to that animosity, he was victimized by the management as well by the representative of the minority Union. The petitioner has no given the date of filing of charter of demand before the respondent management, the date of his resignation from the minority Union and the date of settlement under section 12(3) by the management with the majority Union, without which, this Court was unable to come to the conclusion that this petitioner was removed from his service due to personal animosity that arises due to the resignation of this petitioner from the minority Union. Further, he has failed to examine the co-employees to strengthen their aspect. Therefore, the allegation of rivalry Union activity and personal animosity are found to baseless.

10. At the same time, the respondent has pleaded that he was removed his service for the alleged misconduct that took place on 07-11-2013. To substantiate this pleading, the respondent has filed Ex.R1 wherein, it is stated that on 07-11-2013 at 05.10 p.m. this petitioner, accosted the said Saravanan and used filthy language and assaulted him. Furthermore, as per the Ex.R2, dated 18-04-2015, the termination order, it has been clearly mentioned in the 2nd paragraph that this petitioner accosted the said Saravanan, used filthy language against him and he also assaulted the said Saravanan". Furthermore, in the termination order, dated 18-04-2015 (Ex.R2) it is clearly mentioned that the charge against this petitioner was clearly proved and therefore, he was terminated from his service. Furthermore, the respondent has raised the plea of misconduct of use of filthy language against one Saravanan and same plea was raised before the Conciliation Officer also. But, this petitioner has conveniently suppressed the abovesaid misconduct, dated 07-11-2013 in his pleading before this Court. It shows that this petitioner has not approached this Court with clean hands and he has conveniently suppressed the same. Therefore, from the abovesaid discussion it was clear that this petitioner was removed from his service for the proven of misconduct that took place on 07-11-2013. Thus, the respondent has clearly proved that this petitioner was removed from his service for the proven of misconduct and not for rivalry Union activities.

11. Thirdly, this petitioner has pleaded that the respondent management has conducted the domestic enquiry in a hasty manner and no opportunity was given to this petitioner to defend his case. To substantiate this part of pleading, this petition has to file documentary and oral evidence. But, he has not produced any documentary or oral evidence with respect to the disciplinary proceedings. It shows that this petitioner has raised false and bald allegation only. At this juncture, this inclined to go through the counter pleading and the evidence of RW1, wherein, he has deposed that for the alleged misconduct by this petitioner on 07-11-2013, he has served with charge memo on 13-11-2013 and this petitioner has requested 15 days time for his explanation on 15-11-2013. He has further deposed that the management has granted time to this petitioner to file his objection. It is also deposed that this petitioner has filed his explanation on 30-11-2013 with one line denial. He further deposes that the disciplinary proceedings commenced on 27-12-2013 and it continued on various days as follows:

31-12-2013	18-04-2014
11-01-2014	23-04-2014
25-01-2014	29-04-2014
30-01-2014	05-05-2014
04-02-2014	15-05-2014
15-02-2014	21-05-2014
15-03-2014	02-06-2014
18-03-2014	06-06-2014
21-03-2014	14-06-2014
24-03-2014	19-06-2014
02-04-2014	23-06-2014
07-04-2014	03-07-2014
09-04-2014	11-07-2014.

12. He further deposed that nearly 28 sittings were conducted from the date of commencement on 27-12-2013 and the findings were given on 29-10-2014 and the management has given the copy of the report on 29-12-2014 and await for his reply on the findings. He further deposed that this petitioner filed his view over the report on 13-01-2015. He has further deposed that the second show cause notice was issued on 16-02-2015, the reply was received on 03-03-2015 and then finally he was removed from his service on 18-04-2015. This petitioner has not come forward to cross-examined RW1 to get over the same as false. The unchallenged oral evidence of RW1 substantiate of the pleadings raised in the counter. Thus, it shows that this petitioner was removed from his service only after adopting all the legal formalities and the principles of natural justice. Therefore, this Court comes to the conclusion that there is no violation of principles of natural justice during the enquiry proceedings.

13. Now, let us pass to the punishment awarded to this petitioner as to its proportionality, i.e., it has to find out whether the punishment of dismissal for the alleged misconduct of this petitioner on 07-11-2013 is proportionate or excessive. At this juncture the petitioner side Counsel filed the citation reported in 1982 AIR1552 reported in the case of

Rama Kant Misra

Vs.

State of UP and others, dated 21-10-1982.

Wherein, the Hon'ble Court has indicated that punishment must always be commensurate with the gravity of the offence charged. In the abovesaid ease,

the appellant/workman who had put in more than 14 years of service, who was removed from his service for the misconduct of use of filthy language and threatening posture, and the same was challenged before the Hon'ble Supreme Court, wherein, the Hon'ble Supreme Court has held that the removal of the workman for such allegation is an extreme steps taken by the management. The Hon'ble Supreme Court was not satisfied with the order of dismissal as it was unjustified and has imposed the punishment of withholding of two increments with future effect and stated that which will be more than adequate punishment. Further, this petitioner has filed another judgment reported in 1984 AIR 914 wherein, it is held that the order of the dismissal for the alleged misconduct of use of filthy language as disproportionate. It is held as follows: "We are also of the opinion that no responsible employer would ever impose in like circumstances, the punishment of dismissal to the employee and that victimization or unfair labour practice could well be inferred from the conduct of the management in awarding the extreme punishment of dismissal for a flimsy charge of abuse of some worker or officer of the management by the appellant within the premises of the factory. We therefore, hold that the termination of the appellant's service is invalid and unsustainable in law, and that he is entitled to reinstatement with full back wages and other benefits including continuity of service. The appeal is allowed accordingly with costs quantified at ₹ 1,000.

14. Further, the petitioner side Counsel filed another citation reported in Writ Petition No.12339/2016, dated 08-10-2018 by the Hon'ble Madras High Court. Wherein, the technical staff who was removed from his service for the misconduct of abusive language against his superior *i.e.*, the Assistant Engineer has challenged his order of termination before the Hon'ble Madras High Court. The Hon'ble High Court has held that the penalty of dismissal on the alleged use of filthy language as disproportionate and it has ordered to the reinstate the workman in service with continuity of service with the attendant benefits but, without back wages. It has also ordered a cut in the increment in the wages for the period of 2 years without cumulative effect.

15. Here, in this case also this petitioner was removed from his service for the alleged misconduct of use of filthy language and assaulted against one Saravanan on 07-11-2013. There was no past record of misconduct against this petitioner. Hence, considering the abovesaid circumstances and the service of this petitioner since 1988, this Court comes to the conclusion that the punishment of dismissal is

disproportionate. As laid down by the principles in the abovesaid citations, this Court comes to the conclusion that this petitioner is very well entitle for the benefits of the abovesaid citations. Hence, this Court comes to the conclusion that the order of dismissal has to be necessarily be set aside and he has to be re-instated into service with all other attendant benefits. At the same time, this Court is of the view that the punishment of cut in the increment with cumulative effect for a period of two years would be an appropriate one.

16. In the result, the order of termination by the management is decided as unjustified and the Industrial dispute raised by the petitioner against the management is decided as justified with the following observations.

(i) the order of dismissal, dated 18-04-2015 is set aside and the petitioner is ordered to be re-instated into service with effect from 18-04-2015 with full back wages and all other monetary benefits, however, there shall be a cut in the increment in the wages for a period of two years with cumulative effect.

(ii) Both parties shall bear their own costs.

Dictated to Stenographer, transcribed by him, corrected and pronounced by me in the open Court on this the 12th day of February, 2020.

V. PANDIARAJ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

List of petitioner's witness:

PW.1 — 29-06-2017 Poongavanam.

List of petitioner's exhibits:

Ex.P1 — 18-04-2015 Copy of the Petitioner's Termination Order.

Ex.P2 — 11-05-2015 Copy of the petitioner's raised an Industrial Dispute before the Labour Conciliation Officer.

Ex.P3 — 14-05-2015 Copy of the Conciliation Notice.

Ex.P4 — 27-01-2016 Copy of the Conciliation Failure Notice.

Ex.P5 — 06-06-2016 Copy of the Government Reference.

Ex.P6 — 01-07-2016 Copy of the Legal Notice.

List of respondent's witness:

RW1 — 30-08-2017 Balakrishnan.

List of petitioner's exhibits:

Ex.R1 — 15-05-2015	Copy of Form K filed before the Industrial Tribunal-Labour Court, Puducherry.
Ex.R2 — 18-04-2015	Copy of letter from S & S Power Switchgear Equipments Limited.
Ex.R3 — 20-04-2015	Copy of letter from Poongavanam.
Ex.R4 — 05-05-2015	Copy of letter from S & S Power Switchgear Equipments Limited.
Ex.R5 — 10-06-2015	Copy of letter from Poongavanam.
Ex.R6 — 10-06-2015	Copy of letter from Poongavanam.
Ex.R7 — 23-06-2015	Copy of letter from S & S Power Switchgear Equipments Limited.
Ex.R8 — 17-07-2015	Copy of letter from S & S Power Switchgear Equipments Limited.
Ex.R9 — 27-07-2015	Copy of letter from Office of the Labour Officer (Conciliation).
Ex.R10 — 06-08-2015	Copy of letter from S & S Power Switchgear Equipments Limited.
Ex.R11 — 06-07-2015	Copy of reffrence letter from Labour Department, Puducherry.

V. PANDIARAJ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 71/AIL/Lab./T/2020,
Puducherry, dated 15th July 2020)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 16/2017, dated 05-03-2020 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the Industrial Dispute between the management of M/s. Jayaprakash Narayanan Co-operative Spinning Mill, Neravy, Karaikal and Thiru M. Dhanasekaran, Karaikal, over reinstatement with back wages has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the Notification issued in Labour Department's G.O.Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

S. MOUTTOULINGAM,
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL AT
PUDUCHERRY**

*Present: Thiru V. PANDIARAJ, B.Sc., LL.M.,
Presiding Officer.*

Thursday, the 5th day of March 2020.

I.D. (L) No. 16/2017

M. Dhanasekaran,
No. 6, Sivan Koil Street,
Poovam, Varichikudi,
Karaikal.

.. Petitioner

Versus

The Managing Director,
M/s. Jayaprakash Narayanan
Co-operative Spinning Mill,
Neravy, Karaikal.

.. Respondent

This industrial dispute coming on this day before me for final hearing in the presence of Thiru R. Ramar, Representative for the petitioner and Thiru Sangaralingam and P. Djeassilane, Counsels for the respondent, up on hearing, up on perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This Industrial Disputes has been referred by the Government of Puducherry, as per the G.O. Rt. No. 43/AIL/Lab./T/2017, dated 06-04-2017 for adjudicating the following;

(a) Whether the dispute raised by Thiru M. Dhanasegaran against the management of M/s. Jayaprakash Narayanan Co-operative Spinning Mill, Karaikal, over reinstatement and back wages is justified or not? If justified, what relief he is entitled to?

(b) To compute the relief if any, awarded in terms of money if, it can be computed?

2. Brief of the claim petition:

The petitioner was employed as apprentice during the year 1996 and thereafter, he was made permanent in the year 2000. He availed two years long leave from 01-02-2013 to 01-02-2015. In the mean time, he was called on by the respondent/management and directed to attend the duty and therefore, this petitioner attended the duty on and from 10-02-2014 and he received a sum of ₹ 12,000 as monthly salary. Thereafter, this petitioner availed ESI leave from 01-03-2014 to 07-03-2014. In the meanwhile, this petitioner was admitted in Vinayaga Medical Mission Hospital, through ESI Corporation for surgery on 08-04-2014 and then he was discharged on 21-04-2014. Further, this petitioner availed ESI leave from 22-04-2014 to 27-04-2014. Even then, this petitioner was not able to get good relief and hence, he was unable to attend the duty and he was on leave continuously. In the meanwhile, the management has issued show cause notice stating that he was absent on and from 15-04-2014 and seeks explanation for that and this petitioner filed his reply on 30-04-2014 stating that due to his health condition, he was unable to attend the duty. After getting improvement in the health condition, this petitioner approached the respondent/management on 30-01-2015 for duty. The respondent/management refused to receive the documents submitted by this petitioner and intimated that this petitioner was terminated from his duty on and from 30-08-2014. The second show cause notice issued by the management dated 09-07-2014 was not at all received by this petitioner. This petitioner's effort to get employment ends in failure and therefore, this petitioner approached the Conciliation Officer on 02-02-2015. This petitioner was illegally terminated from service while he was under treatment in Vinayaka Mission Hospital at Karaikal from 08-04-2014 to 21-04-2014. The show cause notice, dated 15-04-2014 was issued, while he was in admission in the Vinayaka Mission Hospital. The reply given by this petitioner on 30-04-2014 was not at all considered by the respondent/management. He was removed from his service without any enquiry and it was also not intimated to this petitioner in appropriate time. The termination of this petitioner is against clause 17 and 21 of the Standing Order of the Mill and it was also against the principles of natural justice, hence, this petitioner has to be reinstated into service with full back wages and all other monetary benefits.

3. Brief of the counter averments:

All the averments in the claim statement is denied as false except those are specifically admitted by the respondent in the counter. The respondent admitted

that this petitioner was permanently employed and he availed the long leave for two years. While the petitioner was on sanctioned long leave he was recalled by the management on 25-01-2014 as per the Standing Order and this petitioner also rejoined duty on 10-02-2014 and he continued his duty till 03-04-2014. Then from 05-04-2014 he was absent from his duty without any intimation and therefore, this respondent issued the show cause notice, dated 15-04-2014 to this petitioner and sought for his explanation. This petitioner filed his reply on 30-04-2014 with medical certificate and fitness certificate, as per the fitness certificate he has to resume work on 26-04-2014, but, he has failed to resume duty from 28-04-2014 onwards and therefore, the respondent/management was constrained to remove this petitioner's name from the muster role of the Mill and therefore, this respondent/management issued a show cause notice on 09-07-2014 and sought for his explanation within 3 days. The postal notice was returned as left without intimation. In abandon caution, the respondent/management also intended to enquire him personally about his continuous absent and a notice was put up in the notice-board on 16-07-2014. Even then, this petitioner failed to give his explanation for his continuous absence. Since, this petitioner was continuously absent from 28-04-2014 onwards, the management has removed his name from the muster roll on 30-08-2014 as per the discharge order passed on 28-08-2014. The discharge order was also returned as undelivered, which was sent to the petitioner's address. Thereafter, this petitioner received the same in person on 30-01-2015. The Assistant Spinning Master was empowered to issue discharge order and he was authorised to terminate this petitioner, as the District Administrator/Collector has given power to him, as per the resolution passed on 27-08-2014. This respondent/management has considered his health condition and expected him to resume duty with effect from 26-04-2014, as per the fitness certificate produced by this petitioner. This petitioner failed to utilize the chances given by the management to explain his inability to attend the duty. The management has adopted the principles of natural justice, while exercising its option to remove this petitioner. This petitioner was reckless towards his employment, which resulted in his termination and therefore, this petition has to be dismissed.

4. While the abovesaid case was pending for filing counter on behalf of this respondent from 15-09-2017 to 07-12-2018, this respondent failed to appear before this Court and hence, *ex parte* order was passed on 07-12-2018. Thereafter, *ex parte* evidence was recorded on 01-02-2019 and the *ex parte* Award was passed on 20-02-2019. Thereafter, the respondent management filed the *ex parte* Award set aside petition and it was

also allowed. While the case was adjourned for enquiry on 27-02-2020, both parties appeared before this Court and filed the memorandum of settlement stating that the entire dispute was settled out of Court and they have represented that, the Award has to be passed in terms of settlement arrived between them on 27-02-2020. To that effect they have filed the joined memorandum of settlement signed by both parties, dated 27-02-2020.

5. The joint memorandum of settlement, dated 27-02-2020 was perused. The terms of settlement was as follows:

(i) The respondent/management will reinstate the petitioner into the services of the Mill with immediate effect.

(ii) The petitioner/workman will not claim any back wages for the period from the date of termination, till the date of settlement.

(iii) The respondent/management will reinstate the petitioner/workman with continuity service.

(iv) The petitioner/workman will not claim any monetary/service benefit for the period from the date of termination till the date of reinstatement.

(v) The respondent/management shall arrange to relieve the petitioner/workman from the services of the Mills under the Special Voluntary Retirement Scheme, which is in vogue/force in the Mills, without any other conditions if, the petitioner/workman submits application under the scheme. Both parties pray this Court to approve the above proposed settlement and pass order and Award accordingly.

6. Since, the dispute has been amicably settled out of Court between the parties as per the Joined Memorandum of settlement, the management has endorsed that they have no objection to record the settlement and to close the reference. The petitioner also reported that the dispute is settled out of Court and he had no objection to close the reference as per of terms of settlement. Hence, considering the facts and circumstances of the case and considering the memorandum of settlement, this Court inclined to pass an Award as per the terms of settlement arrived between the parties on 27-02-2020.

7. In the result, the Award is passed in terms of settlement arrived between both parties on 27-02-2020 and as per the joined memorandum of settlement, dated 27-02-2020 filed before this Court. No cost.

Dictated to Stenographer, transcribed by him, corrected and pronounced by me in the Open Court on this the 5th day of March, 2020.

V. PANDIARAJ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

No. 1056/Lab./AIL/G/2008/695.

Puducherry, the 22nd July 2020.

ORDER

In exercise of the powers conferred under sub-section (1) of section 3 and sub-section (2) of section 5 of the Minimum Wages Act, 1948, read with the notification issued *vide* G.O. Ms. No. 11/Lab./AIL/G/2017, dated 29-06-2017, the undersigned hereby revise the rates of Dearness Allowance for the employees employed in "Tailoring Industries" in the Union territory of Puducherry with effect from 01-01-2020 on the basis of rise in the average consumer price index number reaching 321 from 308 (Base year 2001 = 100) and thereby resulting in an increase of 13 points calculated on the basis of average indices of the Puducherry City Consumer Price Index for the year 2019.

Accordingly, the Dearness Allowance payable to the classes of employees employed in the employment of Tailoring Industries in the Union territory of Puducherry with effect from 01-01-2020 would be ₹ 900 per month.

E. VALLAVAN, I.A.S.,
Secretary to Government (Labour).

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

No. 999/Lab./AIL/G/2003/696.

Puducherry, the 22nd July 2020.

ORDER

In exercise of the powers conferred under sub-section (1) of section 3 and sub-section (2) of section 5 of the Minimum Wages Act, 1948, read with the notification issued *vide* G.O. Ms. No. 07/AI/Lab./G/2016, dated 10-08-2016, the undersigned hereby revise the rates of Dearness Allowance for the employees employed in "Electronic Industries" in the Union territory of Puducherry with effect from 01-01-2020 on the basis of rise in the average consumer price index number reaching 321 from 308 (Base year 2001 = 100) and thereby resulting in an increase of 13 points calculated on the basis of average indices of the Puducherry City Consumer Price Index for the year 2019.

Accordingly, the Dearness Allowance payable to the classes of employees employed in the employment of Electronic Industries in the Union territory of Puducherry with effect from 01-01-2020 would be ₹ 268 per month (cumulative).

E. VALLAVAN, I.A.S.,
Secretary to Government (Labour).